

# Governor's TPT Simplification Task Force

Impact of Arizona's current Tax  
System on Taxpayers

# Overview

- Arizona vs. Other States
- State & City Inconsistencies: Taxpayer Impact
  - Classification Differences
  - Exemptions
  - Nexus and Sourcing
  - Compliance Functions (Licensing, Filing)
  - Procedural Issues

# Arizona vs. Other States



# Arizona vs. Other States (con't)

4 types of sales taxes

- Seller privilege (AZ) – imposed on seller, not purchaser
- Gross Receipts- (NM) imposed on gross receipts
- Consumer Levy – imposed on consumer\*
- Transaction – imposed on transaction\*
- Differences:
  - \*State can go after seller or buyer
  - \*Required to separately state the tax

# Arizona vs. Other States

- Sales tax structures
  - 45 states, District of Columbia, and Puerto Rico have a sales tax (No sales tax – NH, OR, AK, MT, and DE)
  - Over 6,700 taxing jurisdictions
- State Level Administration of Sales and Use Taxes
  - Most states fall into this category
  - Laws are the same
  - Best case scenario
- States with Home-Rule Jurisdictions
  - AL, AK (local only), AZ, CO, IL, and LA
  - Not the company we want to share
  - Worst case scenario

# Arizona vs. Other States

- Local Tax Sourcing
  - Destination – based on shipped to
  - Origin – based on shipped from
  - Place of service – where performed or benefit received
  - Other – commonly where principal negotiations took place (sales office, main office, salesperson's vehicle)

# The bad company we keep

- LA –
  - Uniform Local Sales Tax Code
  - The Louisiana Legislature provided for the creation of a uniform electronic local return and remittance system that gives taxpayers the ability to file and remit all state and local sales and use taxes entirely online. For state and all parishes except Cameron ([ParishE-file.com](http://ParishE-file.com))
- CO – local jurisdictions “may” (vs. AZ “must”) work it out amongst themselves, differences in local taxing rules
- AL – file 3 returns in some jurisdictions (state, county, and city)
- IL – City of Chicago taxes differently

# Taxpayer Impact

- Companies erroneously assume that AZ is similar to the bulk of the other states, which causes many mistakes and unknown errors
- Companies who do the best they can with what they have (i.e. making over-estimates)
- Low hanging fruit issues under audit
- Some states don't recognize AZ TPT as properly paid tax, taxpayer pays double tax
- Streamlined Sales tax has shown that creating uniform definitions helps companies comply with the law, which is what their intention is



# Impact on the State

- Differences creates competitive disadvantage
  - Choose not to locate in AZ
  - Choose not to purchase from AZ companies
- Extra time spent on audits to educate taxpayers and capture differences due to lack of knowledge

# State & City Inconsistencies

## Taxpayer Impact

# State & City Inconsistencies

## Classification Differences

### Commercial Lease:

- State: Maintains the classification, but the rate is zero.
- Counties: There remains in effect the commercial lease rate for certain counties. Not all counties tax commercial leases.
- Cities: Model City Tax Code (“MCTC”) imposes tax on real property rentals. Cities impose varying rates.

# State & City Inconsistencies

## Classification Differences

### Personal Property Rentals:

- State tax is on the business of leasing or renting tangible personal property for a consideration.
- Model City Tax Code imposes tax on the leasing, renting and “licensing for use” of tangible personal property.

# State & City Inconsistencies

## Classification Differences

### Advertising:

- State: State does not impose TPT on advertising.
- Cities: MCTC imposes privilege tax on the business of local advertising.

Food for Home Consumption: Exempt at the State level, but taxable in many cities pursuant to MCTC Model Option #2.

# State & City Inconsistencies

## Exemptions

- Commercial Lease: Unlike the state, the MCTC provides an exemption for gross income from the rental of real property to a qualifying health care organization. However, MCTC Model Option #4 (adopted by 39 cities) removes this exemption and taxes leases to nonprofit health care organizations. Inconsistent tax treatment among cities causes taxpayer confusion.

# State & City Inconsistencies

## Exemptions

### Commercial Lease:

- State law and MCTC provide exemptions for leases by a corporation to an “affiliated corporation”.
- Consideration of type of legal entity structure.
- Generally, all legal entities are regarded to TPT and city privilege tax purposes.

# State & City Inconsistencies

## Exemptions

### Personal Property Rentals:

- State: Taxes charges for installation, labor, insurance, maintenance, repairs, pick-up, delivery, assembly, set-up, personal property taxes, and penalty fees even if these charges are billed as separate items. (R15-5-1502(D)).
- Cities: MCTC exempts delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property, warranty and maintenance contracts, and repair charges not part of a warranty. (Section 450, Reg 450).



# State & City Inconsistencies

## Exemptions

Utilities Classification: Renewable Energy Credits.

- State: Exempts sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. A.R.S. 42-5063(B)(5).
- Cities: No such exemption exists in the MCTC.

# State & City Inconsistencies

## Exemptions

### Amusement Classification

- State: Exempts gross income derived from memberships, including initiation fees, which provide for the right to use a health or fitness establishment.
- Cities: MCTC Local Option H taxes health spa membership fees in 35 cities.

# State & City Inconsistencies

## Nexus

- Nexus – The State has taken the position in audits that a taxpayer who has nexus in one county has nexus for all the counties. Yet taxpayers must make individual nexus determinations for each Arizona city to determine filing and reporting requirements.
- Taxpayer systems must separately account for these differing treatments.

# State & City Inconsistencies

## Sourcing

- State: A remote vendor that is liable for TPT or collection of Arizona use tax shall charge, collect, and remit the tax based on the rate in effect at the physical location of the customer.
- Counties: For inter-county sales, when a sales transaction involves more than one county, the location of the business activities surrounding the sale determines the imposition of tax.
- Cities: MCTC - When two cities or towns could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence

# State & City Inconsistencies

## Licensing

Licensing:

- State: TPT license is perpetual.
- Cities: MCTC Local Option F provides for only 1 year licenses, must be renewed annually.

# State & City Inconsistencies

## VDA, Audits

### VDA

- Have to enter separately with non-program cities and state, some non-program cities do not allow

### Audit/ Managed audit

- MJAC option
- Many taxpayers decline due to extra burden
- Feels like 2 separate audits
- If codes standardized, then create opportunity for synergies with state and city audits

# State and City Inconsistencies

## Procedural Issues

- Independent protest procedures for the State and non-program cities.
- Closing Agreement Process at the State vs. City level. Some cities don't believe they have authority to enter into.
- Power of Attorney – not uniform process